



JAMES E. JOHNSON
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

CHRISTOPHER COYNE
Assistant Corporation Counsel
Labor & Employment Law Division
Phone: (212) 356-1180

October 13, 2020

By ECF

Honorable George B. Daniels
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

SO ORDERED:

George B. Daniels
George B. Daniels, U.S.D.J.

Re: Gilmore v. City of New York,
19 Civ. 6091 (GBD)
Our No. 2019-045889

Dated: OCT 14 2020

Dear Judge Daniels:

I am an Assistant Corporation Counsel in the office of James E. Johnson, Corporation Counsel of the City of New York, attorney for the sole defendant, the City of New York ("City"), in the above-referenced action. Defendant writes, on behalf of all parties, to respectfully request that dispositive motion practice be stayed until resolution of the Order to Show Cause issued by Magistrate Judge Moses which, as explained below, remains outstanding.

On July 6, 2020, the Court ordered the parties to file dispositive motions 30 days following the close of discovery, which was currently set as August 17, 2020. On August 3, however, Magistrate Judge Moses ruled on a discovery dispute between the parties and ordered three of five remaining plaintiffs, Lester Sykes, Michael Bryant, and German Sosa, to produce additional responsive documents on or before September 2, 2020. The parties then jointly requested an initial 46-day extension of time to file dispositive motions, until October 19, 2020. This request was granted.

On September 2, 2020, plaintiffs provided a supplemental production of documents, which were identified as concerning Lester Sykes. At that time, Plaintiffs did not produce documents from Plaintiff Bryant or Plaintiff Sosa. On September 8, 2020, defendant filed a motion for sanctions against Plaintiffs Bryant and Sosa¹, and on September 17, 2020, the Court held argument on defendant's motion. That same day, Magistrate Judge Moses issued an Order to Show Cause ("OSC") instructing Plaintiff Sosa to Show Cause why his claims should not be dismissed from this suit pursuant to Rules 37(b)(2)(A)(v) and 41(b), and set a briefing schedule for the parties' submissions. Plaintiff Sosa's response was filed on October 1, Defendant's

¹ On September 16, 2020 plaintiff Bryant voluntarily withdrew from this suit.

HONORABLE GEORGE B. DANIELS

United States District Judge
Gilmore v. City of New York,
19 Civ. 6091 (GBD)
October 13, 2020
Page 2

opposition was filed on October 9, and Plaintiff Sosa's reply is due on October 16, 2020. Magistrate Judge Moses also noted that if either party believed an evidentiary hearing would be necessary to resolve this issue, that the request be included in the parties' respective submission.

In advance of filing his response to the OSC, on September 28, Plaintiff Sosa produced 96-pages of supplemental discovery. In its response to plaintiff's submission, defendant requested an evidentiary hearing take place to resolve the issues raised by the OSC and Plaintiff Sosa's October 1 filing. Plaintiff Sosa's reply is due this Friday, October 16, 2020.

The parties now jointly request a stay in dispositive motion practice, pending resolution of the OSC and a decision from the Court on whether Plaintiff Sosa's claims should be dismissed pursuant to Rules 37 and 41. There are only four plaintiffs remaining in this matter, including Plaintiff Sosa, and the determination of the OSC will determine if dispositive motion practice is even necessary concerning his claims. Moreover, following the Court's initial extension of the deadline to serve dispositive motions, the parties have been actively litigating discovery issues before the Court, including defendant's motion for sanctions and the pending OSC, which has led to a plaintiff withdrawing from this suit, and supplemental document productions. All of this has reshaped the scope of the case and the potential for dispositive motion practice.

In addition to all of the above, the undersigned will be leaving the Law Department on November 13, 2020. This brief stay of dispositive motion practice will provide necessary time for the parties to resolve these outstanding issues concerning Plaintiff Sosa's claims, as well as time for a new Assistant Corporation Counsel to be assigned to this matter and familiarize themselves with the complex issues raised by this case.

For all of these reasons, the parties jointly request that dispositive motion practice be stayed pending resolution of the OSC. If the Court is amenable to this request, the parties propose that within five business days of a decision from the Court on the OSC, they will file a proposed briefing schedule concerning dispositive motions in this case.

Thank you for your consideration of this matter.

Respectfully submitted,

/s/

Christopher Coyne
Assistant Corporation Counsel

To: Elizabeth R. Sprotzer
Hope A. Pordy

HONORABLE GEORGE B. DANIELS

United States District Judge

Gilmore v. City of New York,

19 Civ. 6091 (GBD)

October 13, 2020

Page 3

SPIVAK LIPTON LLP
1700 Broadway, Suite 2100
New York, NY 10019
(212) 765-2100
(By ECF)

Gregory K. McGillivary
Hillary Lebeau
Sara L. Faulman
Sarah M. Block
MCGILLIVARY STEELE ELKIN LLP
1101 Vermont Avenue, NW
Suite 1000
Washington, DC 20005
(202) 833-8855
(By ECF)